

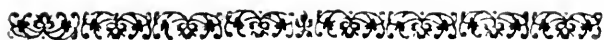
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A
L E T T E R
T O A
NOBLE LORD, &c.



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A
LETTER
 TO A
NOBLE LORD;
 CONTAINING SOME
REMARKS
 ON THE
NATURE and TENDENCY
 OF

Two Acts past LAST SESSION of
 LAST PARLIAMENT:

N A M E L Y,
*An Act for vesting in his Majesty the Estates
 of certain Traytors, &c.*

A N D
*An Act for taking away and abolishing the
 Heritable Jurisdictions in that Part of
 Great Britain called Scotland, &c. And
 for restoring such Jurisdictions to the
 Crown, &c.*

'Tis hard to find in any Region, a human Society, which
 has *human Laws*; No wonder if, in such Societies, 'tis so
 hard to find a Man who lives *Naturally*, and as a *Man*.

Shaft. Char. V. 2. P. 97.

Nuper divitiæ avaritiam, & abundantes voluptates desiderium (per luxum atque libidinem) Pereundi Perdendique omnia invexere.

Liv. in Præf.

L O N D O N :

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My LORD,



IT was an Observation of the judicious and politic Cardinal *De Retz*, soon after the Peace and Reconciliation of the *Parisian* Rebels with the Regent Queen and her Ministry: That *nothing is more rare in Ministers, or indeed more difficult to them, than to keep moderate during that Calm, which immediately succeeds a mighty Tempest; because, though the Distrust continues, Flattery never then fails to redouble.* And, indeed, whenever it happens that a Royal Sovereign triumphs over his treating or vanquished Subjects, *Opposition* of every Kind must naturally, nay necessarily, fly before him: For, his Interest and Power being inconceivably increased by Victory, his Ministers acquire

a Leading and *Influence*, over the Hearts and Minds of his People, dangerous to Liberty and alluring to Ambition; which Influence may chance to be as inauspicious to the public Interest of *Britain*, as already it hath proved fatal to the Liberties of *France*. In our Times, My Lord, Avarice and Ambition have brought Honour and *Virtue* to a public Market: The Crown, so far from being reduced to unprincely Terms, hath been raised and exalted in a supereminent Degree; and *the Syren-voice of Family-flat-tery*, become almost universal, delusively enchants the People to forge their own *Chains*; while the credulous and good-natured, but corrupted People seem unwilling or incapable to withstand its Charms. It is on this Occasion, my Lord, when the public Ear is stopt to public Advice, that I presume humbly to lay before your Lordship a few Considerations on the present political State of *Britain*. I address your Lordship, because much is thought to depend on your Conduct, and much is expected from *the Man*, who, as yet, remains *a singular and noble Instance* of steady Honour and unspotted Fame.

The political State of any Country, when considered in an extensive View, may be comprehended, First, by comparing the Model and Conduct of the Government
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with the internal Frame and Texture of the Constitution ; and, Secondly, by comparing the Model and Conduct of the Government with the Relations and Connections, which naturally subsist and arise betwixt that Country and the neighbouring States or Kingdoms. At present, my Lord, I propose to consider this Subject, only in the first of these Views.

The internal Frame and Texture of a Constitution *consists* in the Manner and Form in which any Country is held and possessed, and in such Orders and Laws as tend to maintain and preserve the same. For, on this Occasion, I hold it as proved, that *Property* or Dominion, is the *Foundation and Cause of Power* *. Wherefore, when the Dominion or *Property* of any Country is at the Will and Pleasure of *one Man*, that Dominion and *Property*, under proper Orders, will give rise to absolute Monarchy ; but, when at the Will and Pleasure of a few, or of a Nobility, will occasion, under proper Orders, an Aristocratical or limited Monarchy ; and, when possessed and conveyed by the Inhabitants in such Manner, as that no particular Person, or number of Persons, can over-balance the collective Body of the

* For Proof of this Proposition, see Liberty and Right, &c. Part I.

People, will produce, with the Assistance of proper Orders, a free or popular Monarchy and State.

As to the Model and Conduct of any Government: If the legislative and executive Powers in a State, or the Person or Persons in whom these Powers reside, *obstruct or destroy*, in whole, or in part, the fundamental Orders and Laws necessary to fix and perpetuate the Situation and Circumstances of a particular Constitution; then, that Government is, in whole or in part, *an ill Government* in Respect of that particular Constitution: But, on the other Hand, if these Powers, legislative and executive, or the Person and Persons who exercise them, *confirm and improve*, in whole or in part, the Circumstances of the Constitution; then that Government may be said to be, in whole or in part, *a good Government* in respect of that Constitution.

Should these foregoing Accounts of Constitution and Government have any Foundation in Truth and Nature, then am I apt to believe the *Constitution and Government of Britain* will be found to be *something very different* from what we are usually made to apprehend. Ask a Modern *British* Politician concerning the *Constitution* of his Coun-

Country, and he will perhaps answer : That it consists in the several Capacities, Prerogatives, Privileges, and Powers, of King, Lords, and Commons ; who, composing three several Estates of Legislature, are yet co-ordinate to one another, and exist after such Manner, that, each being independent of the rest, no Law can pass without the Consent of all ; but, having that Consent, becomes afterwards a Part of the Constitution. Or, if the Gentleman be a *Well-wisher to the Revolution*, he will readily add to the Allegations above, that as Government was originally intended for the Good and Advantage of the People, and not of the few who were intrusted to govern : Therefore Governors, when they govern wrong, may be *resisted and deposed* : And, that although the *British Constitution* consists indeed of the three Estates of King, Lords and Commons, whose Agreement with one another is absolutely necessary to make, or abrogate a Law ; and although that Law, when made, remains a Part of the Constitution : Yet the Constitution consists also in a Compact and Covenant betwixt King and People, exprest in Part and partly understood : Exprest by the Sovereigns Oath to the People to preserve their Liberties, and act agreeably to the Laws ; and understood from the Nature and Intention of

of Government, which was, and is, to serve, cherish, and protect the People.

Permit me, My Lord, to remark upon the Obscurity of both these *Definitions*. They mutually agree in Respect of the Functions and Operations of the three legislative Estates: But the latter differs from the former in Point of hereditary Right, and of the Faculty in the People to depose their Sovereign. I shall therefore consider them in both these Points of View. And,

First, if our *Constitution* be said to consist in the several Capacities, Prerogatives Privileges and Powers of the King, Lords and Commons, as they exist under the Form of the three several Estates of Legislature; and that the Laws, made and promulgated by them, are Parts and Parcels of our *Constitution*: Then, because in every Session of Parliament new Laws are promulgated, and old Laws abrogated or altered, there must be something new added, or something old taken away from the *British Constitution*, yet this being added, or that taken away, by the agreeing and co-ordinate Powers of King, Lords and Commons, (which co-ordinate Powers, *by the Definition*, also compose the Constitution) the *Constitution* must remain the same as it was before; that is to say, something may be taken away, or something added to the Constitution; yet the

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Constitution be thereby neither augmented, nor impaired. Suppose, my Lord, the three co-ordinate Estates should grant to the King *a Power to dispense* with the Laws ; this, being the Act of the co-ordinate Estates, is therefore, *by the Definition*, Constitutional: But a rescinding and renouncing of that Power was formerly an Act of the same Estates, and, in an equal Degree, Constitutional: Wherefore, *by the Definition*, whether that Power is lodged, or not lodged in the Crown, 'tis all the same ; both are equally *Constitutional*. By the same Manner of reasoning, my Lord, *an Army raised at the Pleasure of the Crown*, may be equally *Constitutional*, as an Army raised by the immediate Appointment of Parliament ; *A standing Army*, as a national Militia ; *septennial Parliaments*, as Triennial. These, My Lord, and a thousand such other beautiful Contradictions, must be true, if the co-ordinate Estates, or the Laws of Parliament, compose the *British Constitution*. But,

Secondly, If to the former Account of the *British Constitution*, we super-add the alledged Condition of Compact betwixt King and People, whereby the People, upon default of the King, acquires a Right to depose him, and consequently to

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change the Succession: Then, because whatever is done by the King, Lords and Commons is done *constitutionally*, should the King break his Compact with the People by Advice and Authority of his Parliament, such Breach would, *by the Definition*, be conformable to the Constitution: But, when the King breaks his Compact with the People, the People also have, *by the same Definition*, a constitutional Power to resist and depose him: Therefore the King may, conformably to the *Constitution*, break his Compact with the People; while the People, conformably to the same *Constitution*, may, for such Breach, depose him; *both which*, taken together, are inconsistent and absurd. Wherefore, either the three co-ordinate Estates cannot free the King from his Compact with the People, and are consequently *limited*; which is contrary to the *Definition*; or the People cannot, in such Case, depose the King, which is also contrary to the *Definition*: Or, both Parts of the *Definition* being admitted, the *Constitution* is ridiculous and contradictory.

But to go yet farther, and to indulge *this Definition* as much as possible, permit me, my Lord, to suppose, that the King cannot, even by *Authority of Parliament*,
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dispense with his regal Obligation and Compact: Or, if he should attempt this in any Manner, or by any Means whatever, that the People have *undoubted Right* to resist and depose him: Then I say, that this *Right* being originally, *by the Definition*, derived from the Nature of Government, or the moral Right which all Men have to be happy and free under their respective Governments; all People, in every Country and Nation, have an equal Claim and Demand upon their Rulers, and an equal Right to chastize their Insult and Tyranny, as we have. But, whereas this Right seldom or never takes place in any Country but *Britain*, there must be *something peculiar* to us, and distinct from the Right itself, that belongs not to other Nations.----My Lord, the Thing peculiar to *Britain* is, the august and awful *Influence and Power of the People*: For Right, without Power to maintain it, is the Derision and Sport of Tyrants. But Power takes its Rise from the *Property* and Riches of a Country; wherefore *popular Possessions*, thus generating popular Power, remain *the Basis and Support of popular and moral Right*.

The *Constitution* of *Britain* consists not then in the Right to punish royal De-

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linquency ; for in this Respect all Nations over the Face of the Earth, enjoy the same Constitution ; but it consists in *the popular Situation and Circumstances* of the Country, whereby the People acquire the Capacity and Power of judging and determining about their own and their Sovereigns Rights ; and it also consists in such *Orders* as immediately and naturally tend to perpetuate and promote this happy Situation. What these *Orders* are, may be comprehended under those which regard the Power and Privileges of Parliament ; but what they ought to be, was already attempted to be explained in a separate Essay *.

If this is the *Constitution*, then the *Government* of *Britain* will appear to be *that* which is now vulgarly explained and understood, to signify Constitution and Government too. For the *Government* of *Britain* consists of *two Parts*, the one *Legislative*, the other *Executive*. Our *legislative* Government comprehends those Laws and Rules laid down and prescribed us by the three several Estates, of King, Lords and Commons : And 'tis *this Part* of our Government, which we vulgarly conceive to

* See Liberty and Right, &c. Part. II.

be our *Constitution* : Whereas even those Customs, Prerogatives and Privileges, which prescribe and fix the Powers and Capacities of each particular Estate, can only be understood to denote our Constitution, in as far as they *directly tend* to establish and perpetuate the *popular Situation* : For, *should they* tend otherways, *they would* be so far from composing the whole, or any part of our Constitution, that they would *subvert and destroy* it. But the *Edicts and Decrees of our Parliaments*, as they respect our Conduct and Behaviour ; as they are the Touch-stones by which our Actions are tryed and judged ; as they command and determine the Carriage and Proceedings of the executive Power itself ; and as they may be either agreeable or *disagreeable*, advance, or *oppose* our popular Situation and free Constitution ; *can never*, with any Justness of Thought, be conceived to *be the Constitution* itself. I say then, my Lord, that *the Laws or Decrees of Parliament*, issued out and promulgated from Time to Time to the People, compose our *legislative Government* ; and *those Persons*, comprehended under the several Orders and Estates of Parliament, may be called, I imagine, not improperly, our *legislative Governours*. Our *executive Government* is the same which is vulgarly understood to be

our only Government, and implies that Course, or Series of Conduct and Behaviour observed by the Prince and his Ministers, as being intrusted with the Execution and Exertion of the Laws and Prerogatives of the State.

My Lord, I have dwelt the longer on this Subject, because it seems at present to be *little, if at all* understood. For not only the *meer People*, but those of whom *better things* might be expected, seem to have no other Idea of the *British Constitution*, than as it *exists in a Parliament*; and yet nothing is more evident, than that *a Constitution of this Sort*, could it be called a Constitution, may exist and remain, when *Liberty* is subjected to the Lusts of Tyrants.----How long, my Lord, had *Rome* her Senate and Assemblies? How long did she enjoy these Shadows of her pristine Freedom, after that Freedom was subverted by the triumphant Fate of one Man? But why need I mention *Rome*? Had not *France* formerly, my Lord, her *Parliaments*; free, bold and jealous *Parliaments*? And hath not *France*, at this Day, nominally *the same Parliaments*; the same form of Chambers, or Estates, of *Parliament*? And yet, my Lord, what *a falling off* is there? What *a Loss of Liberty*? What

an Increase of Royal Power.—We too, my Lord, have *our Parliaments*, and our Chambers of Parliament, but when the Power and Eminence of the *Crown* and Nobility, shall as far transcend the Ability and Power of the People *here*, as already it hath done *there*, Liberty and a *popular Constitution* shall be as little felt or known in *Britain*, as at this Day in *France* ; for *like Interests and Power* will promote *like Designs*, and produce *the same Effects*.

What the internal Frame and *Constitution* of *Britain* is, we have just now seen. What *need* this Constitution hath of some particular Orders, to perpetuate and establish it, we have on another Occasion endeavoured to prove *. What remains, then, to be enquired into is, *how far* the present Model and Conduct of Government co-incides with, or varies from, this Constitution ; or, in other Words, *how far* the Tenor of Proceedings, and Behaviour, of our legislative and executive Governors tend to support or destroy this Constitution.

My Lord, I am strongly apprehensive, that *our Constitution* is, at this Day, in more

* See Liberty and Right, &c. Part 1st, and 2d.

Danger of being *changed and overturned* by our Government, than ever it hath been at any Time *before*. And if, my Lord, it shall be made out, that the *Power and Influence* of the *People*, and the Cause of that Power, which is the *Property* and Riches of the Country, hath been, and still is, greatly *declining* from the People; and that the same *Power*, and *Cause* of Power, hath been, and still is, *acquired* and *accumulated* on the Side of the *Crown*; I say, if this shall be made out, I hope this Apprehension of mine will appear to your Lordship *not without Reason*.

I shall not, my Lord, recapitulate nor enforce those Articles of public Complaint, so often repeated and so well charged, yet so ill answered by those of our Government, whose Duty it hath been to answer or *amend*. For, though the want of every Order proper to preserve and secure our Constitution be a *strong and just* Cause of Complaint: Though the *Power and Prerogative* of the Crown be greatly extended and greatly increased; *increased* my Lord, by everlasting *Armies* of Servants and Mercenaries; *increased* by the Influence of the *public Debts* on the Public's Creditors; *increased* by new and innumerable *Posts and Places* in
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in consequence of new and overflowing *Taxes*; *increased* by the almost universal and seemingly irresistible Influence of *Corruption* and *Bribery*: Though, I say, by *these*, and many other such Particulars, the Power and Influence of the *Crown and Ministry* is inconceivably more extensive now, *than it ever was* at any Time since the beginning of our popular Situation: Yet the *last* and most *fatal* Blow was not given till of late. *Fatal* I call it, as it tends *directly* and immediately to the *Subversion* and Change of the *Constitution*: I say *fatal*, as it came not by the Wantonness and Violence of Royalty, but was given by the *legislative* Power of the Nation; and still more *fatal*, as the People are not only insensible of its inevitable Consequences, but even seem to admire and applaud it as useful and necessary. What I mean, my Lord, happened in the last Session of last Parliament: First, by the Act, *For vesting in his Majesty the Estates of certain Traitors*, &c. And, secondly, by that other Act: *For taking away and abolishing the heretable Jurisdictions in that Part of Great Britain, called Scotland*, &c.

I mean not, my Lord, to find Fault with retrenching and dissolving the unlimited
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Power of the ancient *Scotish* Aristocracy ; I far less mean to oppose or complain of any Measures tending to prevent future Rebellions, while these Measures are consistent with *Liberty* ; or to weaken and impede the Hands of our Administration by raising false Alarms in the Minds of the People, and imposing on their Credulity ; but it is to prevent the rise of a *Faction*, the rise of a *Tyranny*, which, if allowed to take Place, cannot but subvert our *Constitution*, that I at present oppose these Laws.

My Lord, the Eminence and Power of the *Scotch* Nobility, in their own Country, hath long since been known and felt ; but the Cause and Occasion of this Power seems not to have been known, or at least not fully attended to, till of late. The late unexpected and formidable Exertion of that Power, my Lord, against our present Sovereign and his Family, determined the last Parliament to deliberate and resolve upon the Suppression of a Leading and Influence, which I freely own was very inconsistent, and very unfavourable to *Liberty* ; and so far the Intention of the Parliament is to be approved and applauded : But, in carrying this into Execution, they seem to have had their Minds *only fixed* on the Power of the
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Nobility; and providing that Power was *crushed* in them, no Matter *where* it was afterwards lodged; and thus far are they liable to blame and just Rebuke, because, in not considering the *natural Consequences* attending the disposal of the aristocratical Power, they have passed an *Act* more *unfavourable* to Liberty, than even the Power of the Aristocracy, *bad* as it was.

My Lord, in a Country where the Liberties and Rights of the People are declared to be the *sole* and *ultimate* End of Government; in a Country where the *Constitution*, or the *Investiture of* the national Riches and *Property* in the Body of the People, is *such* as creates *popular* Dignity and Influence, by which national Liberty and Right is supported and maintained; I say, my Lord, in such a Country; and *such*, I hold, is the Country of *Britain*; Whatever *tends* to subvert or impede the Influence and Power of the People, *subverts* and *impedes* the *popular Constitution*, and of Course popular Right and popular Liberty. But the End and Aim of our Government being to support and protect Liberty and Right, should our *Legislature* permit, or give, to any of the three Estates an Investiture of

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Property, Prerogative or Power, *opposed* to and *inconsistent* with the Independency and Liberties of the People. The Government would, in so far, depart from its first Aim and End; and be, in Respect of the *Constitution*, a *bad* Government. Now, my Lord, the Power and Influence of the *Scotch* Nobility was diametrically opposite to the Freedom and Independency of the People; and subjected, so far as it reached, popular Will and Inclination to private Interest and partial Views. But *this* Power of *these* Chiefs was founded on the *Property* they held in the Country, on the *military Leases* they made of this Property to their Tenants and Vassals, and on their extensive *hereditary Jurisdictions*. I say, my Lord, the Power of the *Scotish* Chiefs was raised and sustained upon this *threefold* Foundation. Now the *first* of these is given to his Majesty by a particular Act of last Sessions: *Vesting in him the Estates of certain Traitors, &c.* The *Second* arises to him in Consequence of the First. I mean, that the *same* Influence over the People subsists *now* in the Person of his Majesty, as did *heretofore* in the Persons of the *Highland* Chiefs. For though, by another Act of last Sessions, *Ward-holding* is taken away, the *Influence* of Property may never-

nevertheless be as *strong* as before. *Wardholding*, your Lordship knows, is a military Tenure depending upon the feudal Law, by which the Superior, or original Proprietor of Lands, gives to the Vassal, or Occupier, any particular Parcel of Lands to be possessed and enjoyed by him and his Heirs, under certain Conditions and Restrictions. For instance, under Condition that the Vassal pay annually some certain Sum, as one Third, or one Fourth of the yearly Value of the Lands, in name of Feu-duty to his Superior: That he be ready, with Horse and Arms, to attend his Superior, when commanded: That he attend his Superior, once, twice, or oftener, in a Year, at his head Court, and do Homage for the Lands he holds: That he shall not Marry without the Consent and Approbation of his Superior: That the Heir succeeding to the Lands of his Ancestor, pay to the Superior a large Fine by Way of Relief, the Lands being supposed to have fallen into the Hands of the Superior on the Death of the Vassal; and if the Heir is under Age, that he be the Ward of the Superior, that is, the Superior shall have the Care of his Education, and be his proper and legal Guardian, and shall receive also the Rents and Profits of his Lands, while he remains under Age: A Breach of one, or all,

of which Conditions, will occasion very large Fines, or a Forfeiture of the Vassals Lands to the Superior. Hence also, your Lordship knows, that these voluntary Donations of Lands by Superiors to their Vassals, for little or no Value, came to fix upon the latter, those *grateful* Obligations and Acknowledgments, which in a great Measure served to raise so high the Power and Ability of the *Northern* Chiefs. Now the *Property* of such of those Chiefs as were engaged in the Rebellion being vested in the Person of his Majesty, though he cannot dispose of it under the Form of *Ward-holding*, yet if he *can* bestow it upon his Vassals in a Way equally beneficial to them, and at the same Time reserve to himself the Power of making them equally sensible of his Displeasure, as they were under the abrogated Form of Ward-holding : Then, of Consequence, his Power and Influence over his Vassals must be *as strong*, as ever was *that* of any of the former Superiors. But this his Majesty *can* do. For his Majesty *can* hold them as Tenants *at Will*, that is, *can* keep these new acquired Lands in his *own Possession*, and grant them neither upon *Lease*, nor for *any Term* of Years ; *can* plant upon these Lands as many Tenants as *he pleases* ; *can oblige* and *fix* these Tenants to *his Interest*, by making
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their Possessions *as* advantageous and easy to them, and if he pleases *more so*, than *ever* they were before ; and last of all *can* make himself as *terrible*, and *his Displeasure* as much *dreaded*, and as heavily *felt*, as ever *any* of their former Chiefs did ; for he *can* turn them out of their Possessions and Habitations at the end of *every* Year. All this, my Lord, his Majesty *can* do in his new acquired Dominions in *Scotland*, as the Law *now* stands ; and all this is *full as much*, if not a *little more*, than even could be done by *Ward-holding*. As for the *third* Cause of Power, your Lordship very well knows, that all the *heretable Jurisdictions* of *Scotland* was dissolved, and *vested also* in the Person of his Majesty in the same last Session of Parliament. Now, my Lord, if the Office of *heretable* Sheriff, and the other judicial Offices known and accustomed to be *heretable* in *Scotland*, had over the Minds and Hearts of the People *such Influence*, as was roundly confessed and acknowledged in Parliament : Then *this Influence* cannot be *less*, though indeed it may be a great deal *more universal*, now that it is vested in the *Crown*. If these hereditary Judges could, by *Virtue* of their Jurisdictions, *attach* the Votes and Interests of the People, by *Fear* or *Favour*, at parliamentary Elections : The
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temporary Judges, now created by the Crown, must remain possessors of the *same* Ability, to *allure* or *compell*. If *formerly* the heritable Sheriff, or the Deputy of the Sheriff, *favoured* or *could* favour an Election by *making out* the Return; *can* we expect that *less* will be done or attempted in *this Way* by the *Crown* Sheriffs, or their Deputies, to serve the *Court* and *Ministry*? Can we expect that *less* will be done by *them*, when they labour under so strong and so immediate an *Influence*: When their very Dignities and Offices *depend* upon the Crown or Favour of a Court or Ministry? Nay, is it not highly probable, that *the Man*, who *prostitutes* the Virtue and Morals of the People most, providing it *serves* the End and *promotes* the Interest of Court and Ministry, will appear to be the Man *best qualified* for his Place, and most *deserving* of Notice and Encouragement? Therefore I say, that *his Majesty*, not *the People*, hath gained just what the Rebel Chiefs have lost; and I say farther, that *his Majesty*, and not *the People*, is *in Possession* of all the Means and Causes of Power, which the Rebel Superiors lately enjoyed; and *must*, of Consequence, acquire an *Influence* and *Power* over the Inhabitants and Occupiers of the Country, so subjected to him, *equally strong* and *universal*
with

with *that* of their former Chiefs; nay *stronger*, my Lord; in as much as the *divided* Powers of many are now united and combined under *one Head*.

But if this Influence and Power extended *so far*, and could do *so much*, when *diffused* and *divided* amongst such a numerous Nobility; if this Influence and Power, though but exerted by *a few*, could even make the *British* Throne to *shake*: If it could *strike* universally the People of *Britain* with Terror and Amazement; What *may* it do, What *must* it be capable of, when *collected* together under the Unity of the *Crown*? *Various* and *opposite* Interests, *various* and *contradictory* Principles and Opinions, formerly weak'ned and divided it: But, now, when *gathered* and *contracted* into *one Center*, when marshalled under *one Commander*, when obedient to *one Will*, must it not have an Effect *incomparably* greater, than it possibly could have had at any Time before? And should ever this Power and Influence be employed to effect a *base* End; should it ever be used to *triumph* over the *Laws*, the *Rights*, the *Liberties* of the *People*; should this, my Lord, be *attempted*, could the *Constitution*, or *Liberties* of *Britain*, without a Miracle and the direct Interposition of Heaven,

Heaven, be *saved* from Perdition? For if these *extraordinary* Privileges and Powers, when vested in the *Highland* Chiefs, could raise a Rebellion so *formidable* and *great* against his present Majesty, as we are all very sensible the *last* was; what must not these Privileges and Powers be *capable* of performing, when *vested* in the Person of *one Royal Chief*, and *backed* and *supported* by all the former *eminent* and *extraordinary* Influence and Energy of the *Crown*?

In ancient Times, *Royalty* endeavoured to raise itself *above* the Laws and Liberties of the People by the *chimerical* Ideas of Prerogative. It rested its Plea on the hollow and cob-web Foundations of *hereditary* Succession, *divine* Right, and *passive* Obedience. For these, my Lord, I call *hollow* and *cob-web* Foundations, because their Strength consisted in the Devotion or Ignorance of the People, and in the Fraud or Influence of the Clergy, which *Learning* and *Knowledge* could *impair* and *deface*: And, at all Events, whenever *absolute* Will was generally *felt*, the Eyes of the Nation opened, and the People, *having Means and Power*, never failed to vindicate their Rights, and disappoint their Invaders. The Clergy were then the Crown's *chief* and most *important* Auxiliaries

liaries ; and yet under *their* Conduct, and with a *very little* Corruption, and but the *Shadow* of an Army, (for *national Virtue* was then *more* strong, and *the Means* to corrupt much *less* powerful, than in latter Times) yet I say, with these *slight* and *slender* Advantages, did the *Crown* make all its *violent Attempts* upon the Liberty and Power of the People. Nor are *these Attempts* to be *forgot*. Your Lordship knows what *extraordinary* Progress was made towards *this Mark*, even with this *airy Apparatus*, in the three last hereditary Reigns of the *Stuarts* ; what Toil, what Fatigue, what Slaughter the Nation underwent, before the *Delirium* of *Charles* the First, could be vanquished ; what lengths were run, what large *Compliances* made, under *Charles* the Second ; and how near *fatal* the Blow was to Freedom and Liberty, under his Brother *James*. But if the *Crown*, in this State of its *Imbecility* and *Weakness*, dar'd make so bold, and could proceed so far ; what shall we imagine, what ought we to expect in these latter Days, when it rests itself, not on the gew-gaw imaginary Strength of *Prerogative*, but on *that*, which is the *solid* and *generating Cause* of all Strength, (*to wit*) *Property*, *Jurisdiction* and *Arms* ? When it rests upon *that Property*, which first made *the People free* ; *that*

Jurisdiction, which first made *the Nobility great* ; and *these Arms*, which in the Hands of our Ancestors *secured* to them their Liberty, and *conveyed* it to us ? Is it possible, my Lord, on this *melancholy* and *fearful Prospect*, for any one to lay his Hand upon his Heart, and promise to himself and Posterity, so much as a *Vestige of Freedom* ?

Upon the whole, my Lord ; as the *Liberties of Britain* hang and depend on the *Property of Britain* ; as the *Riches and Property of the People* are the *great and original Means* by which they *hold and maintain* their Liberty ; as it is *this Property*, and *Orders* adapted to *preserve and maintain* it, upon which the *British People* can rely, with any degree of *Security*, that they shall not be made the *Subjects and Slaves of Oppression and Tyranny* : When *this Property diminishes* from the *Body of the People*, and when the *Orders and Laws of the State* are *opposite and detrimental* to the free and natural *Exercise of popular Influence and Power*, then, in *so far*, does the *Freedom and Independency of the People sink and perish*. Now, *great Part of the Property of Britain*, being solemnly *vested* in his Majesty, by last Session of Parliament ; and the *universal Jurisdiction and Judicatory of all that Part of*
Great

Great Britain called Scotland, being also given up and resigned to his Majesty; the Power and Influence of his Majesty is thereby augmented and increased, by as much at least, as was the Power and Influence of the former Proprietors; and *this Power and Influence* being gained from the Subject, the Influence and Power of the Subject must of Course be impaired and lost, in an exact Proportion to what the Crown hath thereby acquired: And, farther, as *this* is a Power and an Influence fixed on the most lasting and solid Basis, even on *that Basis* which forms and fixes the very British Constitution; and is a Point which never Monarch obtained before: Therefore, my Lord, I conclude, that the *British Constitution* is in greater Danger of being changed and overturned by our Government, than ever it hath been at any Time before; and runs at present a greater Risque of falling a Prey to Royalty and the Will of One, than can be instanced in any given Time.

My Lord, as these Acts, *resting the Estates of certain Traitors and the heretabie Jurisdictions in Scotland, in the Person of his Majesty*, are Acts but lately passed, and one of them not yet took Effect; as they cannot plead the Sanction of Custom, or Time, to give

give an Opportunity for *foisting* them into the *Prerogative*, or *enrolling* them among the Number of our ancient and sacred Institutions: And as they were *passed* in the *Hurry* and towards the *Close* of the *last* Session of *last* Parliament; they may perhaps appear *not* undeserving the *Review* and *Correction* of the present. Perhaps, in that Case, the renowned and distinguished *Genius* of *Britain* will exert itself, and *Liberty* be kept yet a *little while* upon her *old* Foundations. As therefore, my Lord, I have, at this Time, essayed to prove these Laws to be *Il* and *Unconstitutional* in their *present Form*; I will perhaps take another Opportunity, humbly to lay before your Lordship, a Plan, by which they may be adapted to the Principles of *Liberty* and *Revolution-Government*.

I am,

My Lord, &c.

London, Feb.

15, 1748.





